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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/752,620 | 01/06/2004 | Manish Upendran | 158588-0008 | 5967 |

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EXAMINER

FISCHER, ANDREW J

ART UNIT PAPER NUMBER

3627

DATE MAILED: 05/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/752,620 | UPENDRAN ET AL. | |
| | Examiner | Art Unit | |
| | Andrew J. Fischer | 3627 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 14-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Acknowledgements

1. Applicants' response filed February 15, 2006 is acknowledged. Accordingly, claims 1-39 remain pending.
2. Claims 14-39 were withdrawn from further consideration pursuant to 37 C.F.R. §1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on July 1, 2005.
3. This Office Action, the "First Final Office Action" is given Paper No. 20060515.
4. All references in this Office Action to the capitalized versions of "Applicants" refers specifically the Applicants of record. References to lower case versions of "applicant" or "applicants" refers to any or all patent "applicants." Unless expressly noted otherwise, references to "Examiner" in this Office Action refers to the Examiner of record while reference to or use of the lower case version of "examiner" or "examiners" refers to examiner(s) generally.
5. This Office Action is written in OACS. Because of this, the Examiner is unable to control formatting, paragraph numbering, font, spelling, line spacing, and/or other word processing issues. The Examiner sincerely apologies for these errors.

Claim Rejections - 35 USC §103

6. The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-5, 8, 12, and 13 are rejected under 35 U.S.C. §103(a) as being unpatentable over Rautila et. al. (U.S. 6,918,131 B1)(“Rautila”) in view of Lett (U.S. 5,539,822). Rautila discloses a user computer (10-n in Figure 1) coupled to a data network (Internet 30); to display a user interface (on the user’s computer); a broadcast-based client-side device (television 80 in combination with set-top box 84) coupled to the network (Figure 1); the client-side device is able to receive user preferences (as communicated to the system) which includes “user account information” [C3, L6-16] ; the client-side device includes a display (CRT within TV 80) and a user input device (set top box 84); a broadcasts source 70 which is a television programming source; a secure logon operation (inherent in the Internet connection); a third party retailer (inherent in lottery purchase, C5, L30]; and a payment method (using the viewer’s “financial account number). Rautila does not use the exact words that say the client side device a user input to consummate purchase transaction.

8. Lett teaches a broadcast based device (20 + 14) that will consummate a transaction. Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Rautila as taught by Lett and include Lett’s use of purchasing pay per view on screen. Such a modification would have allowed the users to purchase movies even if the Internet connection was somehow disabled.

9. in view of White's How Computers Work 6th Ed. ("White").¹ It is the Examiner's principle position that the claims are anticipated because a computer inherently has a user interface.

However if not inherent, White teaches that computers have a user interface which is a keyboard. Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Rautila as taught by White to directly disclose a keyboard. Such a modification would have simply disclosed that which is inherent in a computer.

10. Claims 6, 7, and 9-11 are rejected under 35 U.S.C. §103(a) as being unpatentable over the Rautila/Lett combination in further view of Swix et. al. (U.S. 6,718,551 B1)("Swix").

Rautila/Lett discloses as discussed above but does not directly disclose a user profile which is based on tracking user activities. Swix teaches a user profile which is based upon content viewed by tracking and storing viewer selections. Swix also discloses that a viewer can purchase video on demand and that the information is (which can be alphanumeric or graphical information) into the video stream using an overlay on the broadcast programming.

11. Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Rautila/Lett as taught by Swix to supplement Rautila's customer data with data describing the viewer's viewing habits. Such a modification would have

¹ See MPEP §2112 expressly authorizing alternative §102/§103 rejections when the question of inherency is present in the anticipation rejection.

improved the profiling of the target consumer by providing advertisements to each viewer in which the viewer is predisposed to purchase.

12. Because Applicants have not objectively indicated and redefined claim limitation(s) to have meanings other than their ordinary and accustomed meanings, the Examiner concludes that Applicants have decided not to be their own lexicographer. To support this position, the Examiner relies on the following factual findings. First and as noted in the previous Office Action,² the Examiner has carefully reviewed the specification and prosecution history and can not locate any lexicographic definition(s). Second, the Examiner finds that not only have Applicants not pointed to definitional statements in their specification or prosecution history, Applicants have also not pointed to a term or terms in a claim with which to draw in those statements³ with the required clarity, deliberateness, and precision.⁴ Third, after receiving express notice in the previous Office Action of the Examiner's position that lexicography is not invoked,⁵ Applicants have not pointed out the "supposed errors" in the Examiner's position regarding lexicography invocation in accordance with 37 C.F.R. §1.111(b) (i.e. Applicants have

² See the First Non Final Office Action mailed August 15, 2005, Paper No. 20050808 Paragraph No. 15 which begins on page 7.

³ "In order to overcome this heavy presumption in favor of the ordinary meaning of claim language, it is clear that a party wishing to use statements in the written description to confine or otherwise affect a patent's scope must, *at the very least*, point to a term or terms in the claim with which to draw in those statements. [Emphasis added.]" *Johnson Worldwide Assocs. v. Zebco Corp.*, 175 F.3d 985, 989, 50 USPQ2d 1607, 1610 (Fed. Cir. 1999).

⁴ "The patentee's lexicography must, of course, appear 'with reasonable clarity, deliberateness, and precision' before it can affect the claim." *Renishaw PLC v. Marposs Societa' per Azioni*, 158 F.3d 1243, 1249, 48 USPQ2d 1117, 1121 (Fed. Cir. 1998) citing *In re Paulsen*, 30 F.3d 1475, 1480, 31 USPQ2d 1671, 1674 (Fed. Cir. 1994).

⁵ See again the First Non Final Office Action, Paper No. 20050808, Paragraph No. 15.

not argued lexicography is invoked). Finally and to be sure of Applicants' intent, the Examiner also notes that Applicants have declined the Examiner's express invitation⁶ to be their own lexicographer.⁷ It remains the Examiner's position that these requirements were reasonable.⁸ Accordingly and for due process purposes, the Examiner gives notice that for the remainder of the examination process (and unless expressly noted otherwise by the Examiner), the heavy presumption in favor of the ordinary and accustomed meaning is not overcome; the claims therefore continue to be interpreted with their "broadest reasonable interpretation" *In re Morris*, 127 F.3d 1048, 1054, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997).⁹ The Examiner now

⁶ *Id.*

⁷ See e.g. *Fuji Photo Film Co. v. ITC*, 386 F.3d 1095, 72 USPQ2d 1769, 1773 (Fed. Cir. 2004) (noting that applicants' failure to correct the examiner's characterization of an element of claim interpretation is nevertheless an indication of how a claim should be interpreted since applicant declined the examiner's express invitation to correct a possible error in claim interpretation: "applicant's attention was called to the examiner's interpretation of [how the element was interpreted by the examiner, and] applicant was invited to correct the examiner's interpretation—an invitation the applicant did not accept.").

⁸ The Examiner's requirements on this matter were reasonable on at least two separate and independent grounds. First, the Examiner's requirements were simply an express request for clarification of how Applicants intend their claims to be interpreted so that lexicography (or even an *attempt* at lexicography) by Applicants was not inadvertently overlooked by the Examiner. Second, the requirements were reasonable in view of the USPTO's goals of compact prosecution, productivity with particular emphasis on reductions in both pendency and cycle time, and other goals as outlined in the USPTO's The 21st Century Strategic Plan, February 3, 2003 available at www.uspto.gov/web/offices/com/strat21/index.htm (last accessed May 15, 2006).

⁹ See also *In re Bass*, 314 F.3d 575, 577, 65 USPQ2d 1156, 1158 (Fed. Cir. 2002) ("In examining a patent claim, the PTO must apply the broadest reasonable meaning to the claim language, taking into account any definitions presented in the specification. Words in a claim are to be given their ordinary and accustomed meaning unless the inventor chose to be his own lexicographer in the specification") (citations omitted); *In re Etter*, 756 F.2d 852, 858, 225 USPQ 1, 5 (Fed. Cir. 1985) (en banc); and MPEP §§ 2111 and 2111.01.

relies heavily and extensively on this interpretation.¹⁰ Unless expressly noted otherwise by the Examiner, the preceding claim interpretation principles in this paragraph apply to all examined claims currently pending.

13. Under the broadest reasonable interpretation standard noted above and unless expressly modified in this Office Action, the Examiner maintains his interpretations including the statements and/or definitions of claim limitations as noted in the previous Office Action. Those previous definitions are part of the administrative record and, in accordance with *In re Morris*, are provided simply as a factual source to support the Examiner's claim interpretations (and ultimately the Board of Patent Appeals and Interferences claim interpretations if necessary¹¹) during ex parte examination.

14. Applicants are reminded that the USPTO uses a different standard for interpreting claims than that used by district courts during inter partes patent infringement litigation. See *e.g. In re American Academy of Science Tech Center*, 367 F.3d 1359, 1369, 70 USPQ2d 1827, 1834 (Fed. Cir. 2004) (noting that “the Board is *required* to use a different standard for construing claims than that used by district courts. We have held that it is *error for the Board to apply the mode of claim interpretation that is used by courts in litigation*, when interpreting the claims of issued

¹⁰ See 37 C.F.R. §1.104(c)(3) which states in part: “the examiner may rely upon admissions by applicant . . . as to *any matter* affecting patentability [Emphasis added.]”

¹¹ See *Gechter v. Davidson*, 116 F.3d 1454, 1460, 43 USPQ2d 1030, 1035 (Fed. Cir. 1997) (“[W]e hold that the Board is required to set forth in its opinions specific findings of fact and conclusions of law adequate to form a basis for our review.”).

patents in connection with determinations of infringement and validity. [Emphasis added.]”¹²

Moreover, unlike patent applicants who have *two* audiences in which their claims may ultimately be judged (*i.e.* ex parte examination now and possibly by a district court during inter partes infringement litigation later), the Examiner has but one audience since “[t]he business of the PTO is patentability, not infringement.” *In re Hogan*, 559 F.2d 595, 607, 194 USPQ 527, 538 (CCPA 1977). Therefore because an examiner’s legal conclusions regarding claim interpretations are provided for purposes of ex parte examination only, the Examiner makes no findings as to how a reviewing body—outside the context of ex parte examination—should interpret the claims. Patent applicants are therefore reminded that not only must they consider and appreciate this potential dichotomy in claim construction, Applicants should draft their claim amendments and arguments in such a way that considers, foresees, and appreciates this potential dichotomy in claim construction. While the Examiner recognizes that particular claim amendments and/or arguments by Applicants may be directed towards ex parte examination only, inter partes litigation only, or perhaps both audiences, the Examiner will hence forth presume that all amendments and arguments by Applicants are directed towards at least ex parte examination unless Applicants express clear statements otherwise.

15. The Examiner maintains his position that the claims do not contain any product-by-process limitations. This issue will not be further addressed by the Examiner.

16.

¹² See also MPEP §2111.01 which begins: “While the claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, this is not the mode of claim interpretation to be applied during examination. [Emphasis in original.]”

Response to Arguments

17. Applicant's arguments filed February 15, 2006 have been fully considered but are moot in view of the new grounds of rejection.

Conclusion

18. References considered pertinent to Applicants' disclosure are listed on form PTO-892. All references listed on form PTO-892 are cited in their entirety.

19. Unless expressly noted otherwise by the Examiner or other USPTO official, the following four (4) citations to the Manual of Patent Examining Procedure ("MPEP") apply to this Office Action *and* any future office action(s), communication(s), or other correspondence provided by the USPTO: MPEP citations to Chapter 2300 are from the MPEP 8th Edition, Rev. 4, October 2005; citations to Chapters 200-900, 1200-1400, and 1700-1900, 2100, 2200, 2600 are from the MPEP 8th Edition, Rev. 3, August 2005. MPEP citations to Chapters 100, 1000, 1100, 1500, 2000, 2500, and 2700 are from the MPEP 8th Edition, Rev. 2, May 2004. MPEP citations to Chapters 1600, 2300, 2400 are from MPEP 8th Edition, August 2001.

20. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

21. Applicants are reminded that patents are written by and for skilled artisans. See *e.g Vivid Technologies, Inc. v. American Science and Engineering, Inc.*, 200 F.3d 795, 804, 53 USPQ2d 1289, 1295 (Fed. Cir. 1999) (“patents are written by and for skilled artisans”).¹³ The Examiner therefore starts with the presumption that Applicants are skilled artisans who possess at least ordinary skill in the art. Consequently, it is the Examiner’s position that because the patent references of record are directed to those with ordinary skill in this art, these references are clear, explicit, and specific as to what they teach. Nevertheless some applicants apparently have difficulty understanding the references. In an effort to maintain compact prosecution, provide due process, and to help these applicants understand the contents of a reference when viewed from the position of one of ordinary skill in this art, Applicants are hereby given actual notice that if after reasonably reading any reference of record—whether the reference is currently of record or subsequently made of record—if Applicants can not reasonably understand or if Applicants have difficulty comprehending one or more sentence(s), statement(s), diagram(s), or principle(s) set forth in the reference(s), Applicants should (in their next appropriately filed response) bring this issue to the attention of the Examiner. In addition to bringing this issue to the attention of the Examiner, and in accordance with 37 C.F.R. §1.111(b), Applicants’ response must also state *why* they either do not understand or *why* they have difficulty comprehending the offending reference(s). If after properly receiving (*i.e.* Applicants’ response is made of record) both Applicants’ request for understanding and the reasons as to *why* the request is made—and assuming the reference is germane to at least one outstanding rejection—the Examiner may

¹³ See also *S3 Inc. v. nVIDIA Corp.*, 259 F.3d 1364, 1371, 59 USPQ2d 1745, 1749-50 (Fed. Cir. 2001)(“patents are written for persons experienced in the field of the invention”).

either provide a substitute reference, or alternatively, do his best to elucidate the particular sentence(s), statement(s), diagram(s), or principles(s) in the offending reference. For all documents or references made of record after this Office Action, Applicants are given actual notice that this paragraph becomes effective when Applicants receive notice that the document or reference is made of record (*i.e.* this paragraph becomes applicable when Applicants submit an Information Disclosure Statement or when Applicants receive an examiner's Notice of References Cited (Form PTO-892)).

22. Additionally, Applicants are reminded that it is inappropriate for the USPTO to disregard any relevant evidence of record. "It is jurisprudentially inappropriate to disregard any relevant evidence on any issue in any case, patent cases included." *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871, 879 (Fed. Cir. 1983). Second, when making substantive patentability determinations, the USPTO uses the preponderance of the evidence standard.¹⁴ In light of this standard, it is clear error for the USPTO not to consider *all* evidence of record. See *e.g. In re Piasecki*, 745 F.2d 1468, 1471, 223 USPQ 785, 787 (Fed. Cir. 1984) ("All the evidence on the question of obviousness must be considered."); *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992) ("After evidence or argument is submitted by the applicant in response, patentability is determined on *the totality of the record*, by a preponderance of evidence with due consideration to persuasiveness of argument. [Emphasis added.]"); *In re Glaug*, 283 F.3d 1335, 1338, 62 USPQ2d 1151, 1152-53 (Fed. Cir. 2002)("Patentability vel non is then determined on the *entirety* of the record, by a preponderance of evidence and weight of

¹⁴ See MPEP §706 I. "The standard to be applied in *all* cases is the 'preponderance of the evidence' test. In other words, an examiner should reject a claim if, in view of the prior art and evidence of record, it is more likely than not that the claim is unpatentable. [Emphasis added.]"

argument. . . . ; patentability is determined by a preponderance of *all* the evidence. [Emphasis added.]”); and *In re Rinehart*, 531 F.2d 1048, 189 USPQ 143, 146 (CCPA 1976)(where the court expressly set forth the issue as “Whether, in light of *all the evidence*, the claimed method would have been obvious at the time the invention was made. [Emphasis added.]”). Third, any factual determination by the USPTO that does *not* consider all relevant evidence of record may not be supported by the required substantial evidence¹⁵ since the particular evidence *not* considered may be probative of a factual issue presented. Forth, prior art patents are not technical treatises and therefore these patents intentionally omit features that are known in the field of the invention. See *S3 Inc. v. nVIDIA Corp.*, 259 F.3d at 1371, 59 USPQ2d at 1749-50 (“The law is clear that patent documents need not include subject matter that is known in the field of the invention and is in the prior art, for patents are written for persons experienced in the field of the invention. ... To hold otherwise would require every patent document to include a technical treatise for the unskilled reader.”); and *Atmel Corp. v. Information Storage Devices, Inc.*, 198 F.3d 1374, 1382, 53 USPQ2d 1225, 1230 (Fed. Cir. 1999)(“The specification would be of enormous and unnecessary length if one had to literally reinvent and describe the wheel.”). Finally and perhaps most importantly, it is well established that “[a] reference anticipates a claim if it discloses the claimed invention ‘such that a skilled artisan could take its teachings in *combination with his own knowledge of the particular art and be in possession of the invention*. [Emphasis in original.]’” *In re Graves*, 69 F.3d 1147, 1152, 36 USPQ2d 1697, 1701 (Fed. Cir. 1995) citing *In*

¹⁵ See *In re Gartside*, 203 F.3d 1305, 1315, 53 USPQ2d 1769, 1775 (Fed. Cir. 2000) where the Federal Circuit concluded that USPTO’s factual findings must be supported by substantial evidence.

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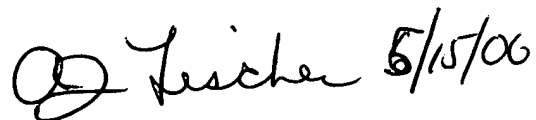
re LeGrice, 301 F.2d 929, 936, 133 USPQ 365, 372 (CCPA 1962) and noting that regarding the claimed “simultaneously monitoring the selected multiple connection points,” the prior art “nevertheless anticipates [the claimed invention], even if it does not specifically disclose simultaneous monitoring of the output points, if simultaneous or parallel monitoring is within the knowledge of a skilled artisan.” *Graves*, 69 F.3d at 1152, 36 USPQ2d at 1701.¹⁶ Therefore because, *inter alia*, it is inappropriate for the USPTO to disregard any relevant evidence, because the USPTO must consider all evidence of record, because any evidence or record *not* considered by the USPTO may be probative of at least one factual issue presented, because prior art patents need not include subject matter that is known in the field of the invention, and because anticipation is determined by the teachings of a reference in combination with the knowledge of one of ordinary skill in the art, Applicants are hereby given actual notice that all prior art rejections (*i.e.* rejection(s) based upon 35 U.S.C. §§ 102 or 103)—if found in this Office Action or any subsequent office action—are based upon the cited reference(s) in the statement of the rejection in combination with the knowledge of one of ordinary skill in this art.

23. In accordance with the USPTO’s goals of customer service, compact prosecution, and reduction of cycle time, the Examiner has made every effort to clarify his position regarding claim interpretation and any rejections or objections in this application. Furthermore, the Examiner has again provided Applicants with notice—for due process purposes—of his position regarding his factual determinations and legal conclusions. The Examiner notes and thanks Applicants for their “Remarks” (beginning on page 2) traversing the Examiner’s positions on

¹⁶ See also *In re Donohue*, 766 F.2d 531, 533, 226 USPQ 619, 621 (Fed. Cir. 1985) for the same statement of law and also citing *In re LeGrice*; and *Ex parte Thomson*, 24 USPQ2d 1618, 1620 (B.P.A.I. 1992).

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various points. If Applicants disagree with any additional factual determination or legal conclusion made by the Examiner in this Office Action whether expressly stated or implied,¹⁷ the Examiner respectfully reminds Applicants to properly traverse the Examiner's position(s) in accordance with 37 C.F.R. §1.111(b) in their next properly filed response. By addressing these issues now, matters where the Examiner and Applicants agree can be eliminated allowing the Examiner and Applicants to focus on areas of disagreement (if any) with the goal towards allowance in the shortest possible time. If Applicants have any questions regarding the Examiner's positions or have other questions regarding this communication or even previous communications, Applicants are strongly encouraged to contact Examiner Andrew J. Fischer whose telephone number is (571) 272-6779. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's immediate supervisor, Alexander Kalinowski, can be reached at (571) 272-6771. The fax number for facsimile responses is now (571) 273-8300.



Andrew J. Fischer
Primary Examiner
Art Unit 3627

AJF
May 15, 2006

¹⁷ *E.g.*, if the Examiner rejected a claim under §103 with two references, although not directly stated, it is the Examiner's implied position that the references are analogous art.